

**Testimony of David Sutherland – Director of Government Relations
Before the Environment Committee – February 18th, 2009**

On behalf of The Nature Conservancy, and considering the budget climate we all face, I would like to express our support for the aspect of Governor Rell's budget proposal in Bill 6371, which in conjunction with other bills would change the manner in which the Department of Environmental Protection is funded.

While we are very concerned about program and staff eliminations or deficiencies in other portions the Governor's budget, Bill 6371 importantly addresses a long-term structural defect in the way in which the DEP has been funded. **It is important to stress that passing this bill without also passing provisions in Bill 6365 and other bills, which would transfer funding for certain DEP staff positions from special dedicated funds to the General Fund, would be catastrophic for the agency.**

This bill and its necessary companion budget bills would transfer the funding for 353 DEP staff positions from special dedicated-revenue funds to the General Fund, and transfer the fund balances in the dedicated accounts, and the dedicated-fee revenues to the General Fund. Since we believe that the agency is seriously underfunded, and that certain types of revenues should be dedicated to relevant programs, **we think a better solution would be to retain the special funds for the agency and significantly increase the number of General Fund positions, as the Appropriations Committee proposed to do last year.** Since that seems unlikely to happen in the foreseeable future, we believe that the concept in Bill 6371 is the next best alternative to avert an even worse fiscal crisis than currently exists at the agency.

Over the past twenty years, the number of DEP positions covered by the General Fund has been cut almost in half, from 779 in 1988 to 391 today. Special dedicated fees have made up the difference, increasing from 35 in 1988 to 444 today. There are two serious problems with this transfer from General Fund to Special funds.

First, when positions are funded by the General Fund, the Comptroller's Office, not DEP, pays for employee benefits, which now amount to 60% of salary. When positions are funded by special or dedicated fees, the benefits are paid for by the agency. Second, most general fund positions are adjusted for inflation annually; dedicated fees are increased only occasionally. DEP has been projecting and warning for a few years that these factors would create the need for very significant layoffs in 2010 -2012, even without the state's budget woes.

DEP's special dedicated fees were established by the legislature in 1990 as a compromise measure to avoid the layoffs of 76 staff positions that had been proposed by Governor O'Neill. Advocates representing regulated industries, park visitors, anglers, and others who paid fees, agreed to increase most fees by 25% if the revenues from the *increased amount (not the underlying fees, which still went to the general fund)* were
(over)

dedicated to two new accounts at the agency which would be used to retain the positions slated for layoffs.

From the beginning, advocates insisted that this would not be a sustainable solution, due to the two inherent disadvantages to using dedicated fees mentioned above, and a concern that future cuts in general fund positions would more than offset any gains from fees. A task force was appointed to determine more sustainable funding mechanisms for the DEP, but it never issued recommendations.

It should be noted that even back in 1990, the DEP was already understaffed to meet its responsibilities. The Thomas Commission (*The Commission to Study the Management of State Government, chaired by DeRoy Thomas – President of ITT*) found that of thirteen state agencies it studied in 1990, the DEP was unique to the extent it was "under-resourced". This commission, by the way, was not an advocate of big spending; in looking at other agencies, the commission identified over \$500 million in annual savings it maintained the state could achieve.

Since then, as we have come to better understand the role that a healthy, clean environment plays in the health of our communities, the DEP has been given many new responsibilities, some of them by the federal government. For a period in the mid-90's, an increase in federally-funded positions (*from 218 in 1988 to 298 in 1994*) helped the agency from falling egregiously behind in its duties. Since then, however, federally-funded positions have decreased back to 1988 levels.

Last year, the leaders of the Appropriations Committee proposed an additional fifty positions for the DEP. When a new budget was not adopted for this current fiscal year, those new positions were obviously lost. We're in a far more difficult climate this year, and adding new staff is impossible. That committee clearly singled this agency out last year, however, as one where further cuts would create severe hardships for our municipalities, our business community, and our environment.

Without a significant increase in General Fund positions, DEP will suffer very severe deficits and layoffs. By 1) diverting the balances that were in DEP special fund accounts to the General Fund, and 2) splitting the fiscal burden for salaries and benefits, of many positions currently funded by special funds, between the DEP and the Comptroller's "benefits account"; this bill and its companions will avoid a deficit in the general fund for at least the next two years, and avert disastrous cuts at the agency.